

# Sales & Use Tax

Revised June 14, 2007

## Example #1 – Tangible Property and Services Base with Exemption for Business Inputs

### 59-12-102. Definitions.

As used in this chapter:

(1) "Business inputs" means:

- (a) any property or service if the purchase of that property or service by the purchaser qualifies for a deduction as an ordinary and necessary trade or business expense under Section 162 of the Internal Revenue Code as amended,‡
- (b) property used in the purchaser's trade or business of a character which is subject to the allowance for depreciation provided in Section 167 of the Internal Revenue Code as amended,‡
- (c) property for which a deduction is allowed under Section 179 of the Internal Revenue Code as amended,‡ or
- (d) property held by the taxpayer for sale.

### 59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

- (1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:
- (a) retail sales of tangible personal property made within the state;
  - (b) retail sales of services made within the state;
  - (c) ...

### 59-12-104. Exemptions.

The following sales and uses are exempt from the taxes imposed by this chapter:

- (1) sales of business inputs to a purchaser in the conduct of its regular business functions and activities;
- (2) ...

‡ The language referencing provisions of the Internal Revenue Code (IRC) as amended will be refined during the process of converting the language into draft legislation. In addition, the following provisions could be added to increase consistency with case law upholding the incorporation of federal law and subsequent amendments by reference: rulemaking authority expressly delegating the determination of which IRC provisions are incorporated; guidelines for making the determination; and provisions requiring notice of relevant IRC changes to taxpayers and the Legislature.

## **Example #2 – Final Consumption Base**

### **59-12-102. Definitions.**

As used in this chapter:

(1) "Final consumption" means:

(a) any property or service that does not constitute a business input.

(2) "Business inputs" means:

(a) any property or service if the purchase of that property or service by the purchaser qualifies for a deduction as an ordinary and necessary trade or business expense under Section 162 of the Internal Revenue Code as amended,‡

(b) property used in the purchaser's trade or business of a character which is subject to the allowance for depreciation provided in Section 167 of the Internal Revenue Code as amended,‡

(c) property for which a deduction is allowed under Section 179 of the Internal Revenue Code as amended,‡ or

(d) property held by the taxpayer for sale.

### **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.**

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property for final consumption made within the state;

(b) retail sales of services for final consumption made within the state;

(c) ...

### **59-12-104. Exemptions.**

The following sales and uses are exempt from the taxes imposed by this chapter:

(1) ...

‡ The language referencing provisions of the Internal Revenue Code (IRC) as amended will be refined during the process of converting the language into draft legislation. In addition, the following provisions could be added to increase consistency with case law upholding the incorporation of federal law and subsequent amendments by reference: rulemaking authority expressly delegating the determination of which IRC provisions are incorporated; guidelines for making the determination; and provisions requiring notice of relevant IRC changes to taxpayers and the Legislature.